

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
MICHAEL KAIL,  
Defendant.

Case No. 18-cr-00172-BLF-1

**ORDER REQUESTING  
CLARIFICATION ON  
GOVERNMENT'S POSITION**

At the October 19, 2021 hearing, the Government volunteered that the Sumo Logic stock is not subject to forfeiture. The Government represented that the Sumo Logic stock certificates were seized in 2015, and the Government failed to include the stock in the indictment filed on April 26, 2018. ECF No. 1. At the hearing, the Government's position appeared to be that the Sumo Logic stock did not constitute "subsequently located property" under Federal Rule of Criminal Procedure 32.2, because the Government had constructive knowledge of the stock at the time the indictment was filed.

The Government now argues in its supplemental briefing that the Sumo Logic stock is subject to forfeiture under Rule 32.2. *See* ECF No. 276 at 1. Accordingly, the Court ORDERS the government to clarify its position on the Sumo Logic stock on or before October 29, 2021.

**IT IS SO ORDERED.**

Dated: October 27, 2021



BETH LABSON FREEMAN  
United States District Judge